IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
CIVIL APPELATE JURISDICTION

WRIT PETITION NO.5844 OF 2005

Mr.Ashok Goyal .. Petitioner.
V/s.
Tax Recovery Officer,
Range 4 Thane & Others .. Respondents.

Mr.A.C. Singh with Mr.S.D. Patil for the petitioner.
Mr.Ashok Kotangale for respondent Nos.1 to 3.
Mr.N.Y. Gupte for respondent No.4.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Rule, returnable forthwith.

2. Heard finally by consent of the parties.

3. During the course of hearing, parties to the petition agreed that the impugned order passed by the Tax Recovery Officer, Range 4, Thane; dated August 4, 2005 be set aside without examining the merits or demerits of the said order; since the impugned order is sketchy and without any adequate consideration.

4. All parties to the petition agree that the proceedings be remitted back to the Tax Recovery Officer with direction to hear and decide the objections raised by the petitioner to the attachment of the property denovo.

5. In this view of the matter, the impugned order dated August 4, 2005 incorporated at Exhibit ‘G’ is set aside by consent of the parties. Proceedings are remitted back to the Tax Recovery Officer for consideration afresh.

6. We hope that while deciding the objection, the Tax Recovery Officer shall take into consideration the law laid down by the Apex Court in the case of Ambati Narasayya V/s. M. Subha Rao & Another [AIT 1990 S.C. 119] and S.S. Dayananda V/s. K.S. Nagesh Rao & Others [(1997) 4 SCC 451].

7. Needless to mention that all rival contentions of the parties are kept open.

8. The Tax Recovery Officer is directed to consider the objections to the attachment following principles of natural justice after hearing all the parties as expeditiously as possible at any rate within three months from the date of receipt of the copy of this order.

9. The petition is, thus, disposed of. Rule is made absolute in terms of this order with no order as to costs.

(J.P. DEVADHAR, J.) (V.C. DAGA, J.)